

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

GEORGE T. HOWELL, III,

Petitioner,

v.

SARAH REVELL,

Respondent.

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Civil No. **04-593-CJP**

ORDER

PROUD, Magistrate Judge:

Before the Court is Petitioner's Motion for Extension of Time Pursuant to F. R. App. P. Rule 4(a)(B)(5)[sic]. **(Doc. 28)**.

Petitioner filed a notice of appeal on January 3, 2006. After being alerted by the Seventh Circuit Court of Appeals that his notice of appeal was untimely, petitioner filed the instant motion seeking an extension of time in which to file an appeal. The Court must deny the motion because it is untimely.

Judgment was entered on October 20, 2005. **(Doc. 14)**. The notice of appeal was due on December 19, 2005. Fed.R.App.P 4(a)(1)(B). Rule 4(a)(5)(A) authorizes the Court to extend the time for filing a notice of appeal only if the "party so moves no later than 30 days" after the time provided for filing the notice of appeal, i.e., no later than 30 days after December 19, 2005. The instant motion was mailed on February 28, 2006, more than a month late.

Rule 4(a)(6) does not afford petitioner relief either. That rule authorizes the Court to reopen the time for filing an appeal, but only where the party did not receive notice of the judgment within 21 days of the date on which it was entered. Petitioner states that he received a

copy of the judgment on October 27, 2005, a week after it was entered. **Doc. 28, ¶1.**

For the foregoing reasons, Petitioner's Motion for Extension of Time Pursuant to F. R. App. P. Rule 4(a)(B)(5)[sic] (**Doc. 28**) is **DENIED**.

IT IS SO ORDERED.

DATE: May 3, 2006.

s/ Clifford J. Proud
CLIFFORD J. PROUD
UNITED STATES MAGISTRATE JUDGE